IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 27TH NOVEMBER 2007 / 6TH AGRAHAYANA 1929

Bail Appl..No. 7246 of 2007()

C.R.NO.40/2007 OF BADIADKA EXCISE RANGE

PETITIONER: ACCUSED:

PADMAVATHI.A, AGED 34 YEARS,
W/O.KARUNAN, MANAYATHDKA, KASARAGOD VILLAGE,
KASARAGOD TALUK, KASARAGOD DISTRICT.

BY ADV. SRI.M.SASINDRAN

RESPONDENTS: COMPLAINANT & STATE:

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1. STATE-REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

2. THE STATION HOUSE OFFICER, (C.R.NO.40
OF 2007 OF BADIADKA EXCISE RANGE), KASARAGOD
DISTRICT.

BY P.P.SRI.S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 27/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 7246 OF 2007

Dated this the 27th day of November, 2007

O R D E R

Application for anticipatory bail. The petitioner-a woman faces allegations under the Kerala Abkari Act. She was allegedly found to be in possession of 3 litres of arrack on 8.11.07. The petitioner could not be arrested as no women police officials were there in the detecting party at the time of detection. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. It is prayed that directions under section 438 Cr.P.C. may be issued in favour of the petitioner.

3. The learned Public Prosecutor opposes the application. He submits that there are no circumstances justifying or warranting the invocation of the extraordinary equitable jurisdiction under section 438 Cr.P.C. The petitioner may be directed to surrender before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course, submits the learned Public Prosecutor.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. I am satisfied that there are no features in this case which would justify the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This, I agree with the learned Public Prosecutor, is a fit case where the petitioner must appear before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course.

5. In the result, this petition is dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

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